

(e) In addition to the waiver authority provided in 24 CFR 5.110, the Secretary may, subject to statutory limitations, waive any provision of this title on a program-wide basis, and delegate this authority in accordance with section 106 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3535(q)) where the Secretary determines that such waiver is necessary for the effective implementation of this part.

§ 903.3 When must a PHA submit the plans to HUD?

(a) *5-Year Plan.* (1) The first PHA fiscal year that is covered by the requirements of this part is the PHA fiscal year that begins January 1, 2000. The first 5-Year Plan submitted by a PHA must be submitted for the 5-year period beginning January 1, 2000. The first 5-Year Plans will be due no later than 75 days before January 1, 2000. For PHAs whose fiscal years begin after January 1, 2000, their 5-Year Plans are due no later than 75 days before the commencement of their fiscal year. For all PHAs, after submission of their first 5-Year Plan, all subsequent 5-Year Plans must be submitted once every 5 PHA fiscal years, no later than 75 days before the commencement of the PHA's fiscal year.

(2) PHAs may choose to update their 5-Year Plans every year as good management practice. PHAs must explain any substantial deviation from their 5-Year Plans in their Annual Plans.

(b) *The Annual Plan.* The first Annual Plan submitted by a PHA must be submitted 75 days in advance of the first PHA fiscal year in which the PHA receives Federal fiscal year 2000 funds. Since the first PHA fiscal year funded with Federal Fiscal Year 2000 funds will commence January 1, 2000, the first Annual Plan will be due 75 days in advance of that date or October 15, 1999. PHAs with later fiscal year commencement dates must submit their Annual Plans 75 days in advance of their fiscal year commencement date. Subsequent Annual Plans will be due 75 days in advance of the commencement of a PHA's fiscal year.

§ 903.5 What information must a PHA provide in the 5-Year Plan?

(a) A PHA must include in its 5-Year Plan for the 5 PHA fiscal years immediately following the date on which the 5-Year Plan is due to HUD, a statement of:

(1) The PHA's mission for serving the needs of low-income, very low-income and extremely low-income families in the PHA's jurisdiction; and

(2) The PHA's goals and objectives that enable the PHA to serve the needs of the families identified in the PHA's Annual Plan. For HUD, the PHA and the public to better measure the success of the PHA in meeting its goals and objectives, PHAs must adopt quantifiable goals and objectives for serving those needs wherever possible.

(b) After submission of the first 5-Year Plan, a PHA in their succeeding 5-Year Plans, in addition to addressing their mission, goals and objectives for the next 5 years, must address the progress made by the PHA in meeting its goals and objectives described in the previous 5-Year Plan.

§ 903.7 What information must a PHA provide in the Annual Plan?

The Annual Plan must include the information provided in this section, except that for the first Annual Plan, the following information need not be submitted: the information required by paragraph (l) of this section that pertains to section 12 of the U.S. Housing Act of 1937 (42 U.S.C. 1437j(c)); the information required by paragraph (m) of this section that relates to drug elimination policies; and the information required by paragraph (n) of this section. Additionally, the information described in this section applies to both public housing and tenant-based assistance, except where specifically stated otherwise, and the information that the PHA must submit for HUD approval under the Annual Plan are the discretionary policies of the various plan components or elements (for example, selection policies) and not the statutory or regulatory requirements that govern these components.

(a) *A statement of housing needs.* (1) This statement must address the housing needs of the low-income and very low-income families who reside in the

jurisdiction served by the PHA, and families who are on the public housing and Section 8 tenant-based assistance waiting lists, including:

(i) Families with incomes below 30 percent of area median (extremely low-income families);

(ii) Elderly families and families with disabilities;

(iii) Households of various races and ethnic groups residing in the jurisdiction or on the waiting list.

(2) The housing needs of each of these groups must be identified separately. The identification of housing needs should address issues of affordability, supply, quality, accessibility, size of units and location. The statement of housing needs also must describe the ways in which the PHA intends, to the maximum extent practicable, to address those needs, and the PHA's reasons for choosing its strategy.

(b) *A statement of financial resources.* This statement must address the financial resources that are available to the PHA for the support of Federal public housing and tenant-based assistance programs administered by the PHA during the plan year. The statement must include a listing of the significant PHA operating, capital and other proposed Federal resource commitments available to the PHA, as well as tenant rents and other income available to support public housing or tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each federal program. In this statement, the PHA also must describe the planned uses for the resources.

(c) *A statement of the PHA's policies that govern eligibility, selection, and admissions.* This statement must describe the PHA's policies governing resident or tenant eligibility, selection and admission. This statement also must describe any PHA admission preferences, assignment and any occupancy policies that pertain to public housing units and housing units assisted under section 8(o) of the U.S. Housing Act of 1937. The requirement to submit PHA policies governing assignment only applies to public housing. This statement also must include the following information:

(1) The PHA's procedures for maintaining waiting lists for admission to the PHA's public housing projects. These procedures must include any site-based waiting lists, as provided by section 6(s) of the U.S. Housing Act of 1937. This section permits PHAs to establish a system of site-based waiting lists that are consistent with all applicable civil rights and fair housing laws and regulations. Notwithstanding any other regulations, a PHA may adopt site-based waiting lists where:

(i) The PHA regularly submits required occupancy data to HUD's Multifamily Tenant Characteristics Systems (MTCS) in an accurate, complete and timely manner;

(ii) The system of site-based waiting lists provides for full disclosure to each applicant of any option available to the applicant in the selection of the development in which to reside, including basic information about available sites (location, occupancy, number and size of accessible units, amenities such as day care, security, transportation and training programs) and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types (e.g., regular or accessible) at each site;

(iii) Adoption of site-based waiting lists would not violate any court order or settlement agreement, or be inconsistent with a pending complaint brought by HUD;

(iv) The PHA includes reasonable measures to assure that such adoption is consistent with affirmatively furthering fair housing, such as reasonable marketing activities;

(v) The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications through the following steps:

(A) As part of the submission of the Annual Plan, the PHA shall assess changes in racial, ethnic or disability-related tenant composition at each PHA site that may have occurred during the implementation of the site-based waiting list, based upon MTCS occupancy data that has been confirmed to be complete and accurate by an independent audit (which may be the annual independent audit);

(B) At least biannually use independent testers or other means satisfactory to HUD, to assure that the site-based waiting list is not being implemented in a discriminatory manner, and that no patterns or practices of discrimination exist, and providing the results to HUD; and

(C) Taking any steps necessary to remedy the problems surfaced during the review and the steps necessary to affirmatively further fair housing.

(2) The PHA's admissions policy with respect to deconcentration of very low-income families and income-mixing. Deconcentration and income-mixing is required by section 16 of the U.S. Housing Act of 1937 (42 U.S.C. 1437n). To implement the requirement, which is applicable specifically to public housing, PHAs must:

(i) Determine and compare the relative tenant incomes of each development, as well as the household incomes of census tracts in which the developments are located; and

(ii) Consider what admissions policy measures or incentives, if any, will be needed to bring higher-income families into lower-income developments (or if appropriate to achieve deconcentration of poverty, into developments in lower income census tracts) and lower-income families into higher income developments (or if appropriate to achieve deconcentration of poverty, into developments in higher income census tracts). PHA policies must devote appropriate attention to both of these goals. PHA policies must affirmatively further fair housing; and

(i) Make any appropriate changes in their admissions policies.

(3) The policies governing eligibility, selection and admissions are applicable to public housing and tenant-based assistance, except for the information requested on site-based waiting lists and deconcentration. This information is applicable only to public housing.

(d) *A statement of the PHA's rent determination policies.* This statement must describe the PHA's basic discretionary policies that pertain to rents charged for public housing units, including applicable flat rents, and the rental contributions of families receiving tenant-based assistance. For tenant-based assistance, this statement shall cover

any discretionary minimum tenant rents and payment standard policies.

(e) *A statement of the PHA's operation and management.* (1) This statement must describe the PHA's rules, standards, and policies that govern maintenance and management of housing owned, assisted, or operated by the PHA. This statement also must include a description of any measures necessary for the prevention or eradication of pest infestation which includes cockroach infestation. Additionally, this statement must include a description of PHA management organization, and a listing of the programs administered by the PHA.

(2) The information pertaining to PHA's rules, standards and policies regarding management and maintenance of housing applies only to public housing. The information pertaining to program management applies to public housing and tenant-based assistance.

(f) *A statement of the PHA grievance procedures.* This statement describes the grievance and informal hearing and review procedures that the PHA makes available to its residents and applicants. This includes public housing grievance procedures and tenant-based assistance informal review procedures for applicants and hearing procedures for participants.

(g) *A statement of capital improvements needed.* With respect to public housing only (public housing projects owned, assisted or operated by the PHA), this statement describes the capital improvements necessary to ensure long-term physical and social viability of the public housing projects, including the capital improvements to be undertaken in the year in question and their estimated costs. PHAs are encouraged to include 5-Year Plans covering large capital items.

(h) *A statement of any demolition and/or disposition.* With respect to public housing only, a description of any public housing project, or portion of a public housing project, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the U.S. Housing Act of 1937 (42 U.S.C. 1437p), and the timetable for demolition and/or disposition.

(i) *A statement of the public housing projects designated as housing for elderly families or families with disabilities or elderly families and families with disabilities.* With respect to public housing only, this statement identifies any public housing projects owned, assisted, or operated by the PHA, or any portion of these projects, that the PHA has designated for occupancy only by the elderly families or only by families with disabilities, or by elderly families and families with disabilities or will apply for designation for occupancy by only elderly families or only families with disabilities, or by elderly families and families with disabilities as provided by section 7 of the U.S. Housing Act of 1937 (42 U.S.C. 1437e).

(j) *A statement of the conversion of public housing to tenant-based assistance.* (1) This statement describes any building or buildings that the PHA is required to convert to tenant-based assistance under section 33 of the U.S. Housing Act of 1937 (42 U.S.C. 1437z-5), or that the PHA plans to voluntarily convert under section 22 of the U.S. Housing Act of 1937 (42 U.S.C. 1437t). The statement also must include an analysis of the projects or buildings required to be converted under section 33, and the amount of assistance received commencing in Federal Fiscal 1999 to be used for rental assistance or other housing assistance in connection with such conversion.

(2) The information required under this paragraph (j) of this section is applicable to public housing and only that tenant-based assistance which is to be included in the conversion plan.

(k) *A statement of homeownership programs administered by the PHA.* This statement describes any homeownership programs administered by the PHA under section 8(y) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(y)), or under an approved section 5(h) homeownership program (42 U.S.C. 1437c(h)), or an approved HOPE I program (42 U.S.C. 1437aaa) or for any homeownership programs for which the PHA has applied to administer or will apply to administer under section 5(h), the HOPE I program, or section 32 of the U.S. Housing Act of 1937 (42 U.S.C. 1437z-4).

(l) *A statement of the PHA's community service and self-sufficiency programs.* (1) This statement describes:

(i) Any PHA programs relating to services and amenities coordinated, promoted or provided by the PHA for assisted families, including programs provided or offered as a result of the PHA's partnership with other entities;

(ii) Any PHA programs coordinated, promoted or provided by the PHA for the enhancement of the economic and social self-sufficiency of assisted families, including programs provided or offered as a result of the PHA's partnerships with other entities, and activities under section 3 of the Housing and Community Development Act of 1968 and under requirements for the Family Self-Sufficiency Program and others. The description of programs offered shall include the program's size (including required and actual size of the Family Self-Sufficiency program) and means of allocating assistance to households.

(iii) How the PHA will comply with the requirements of section 12(c) and (d) of the U.S. Housing Act of 1937 (42 U.S.C. 1437j(c) and (d)). These statutory provisions relate to community service by public housing residents and treatment of income changes in public housing and tenant-based assistance recipients resulting from welfare program requirements.

(2) The information required by paragraph (l) of this section is applicable to both public housing and tenant-based assistance except that the information regarding the PHA's compliance with the community service requirement applies only to public housing.

(m) *A statement of the PHA's safety and crime prevention measures.* With respect to public housing only, this statement describes the PHA's plan for safety and crime prevention to ensure the safety of the public housing residents that it serves. The plan for safety and crime prevention must be established in consultation with the police officer or officers in command of the appropriate precinct or police departments, and the plan must provide, on a project-by-project or jurisdiction wide-basis, the measures necessary to ensure the safety of public housing residents.

(1) The statement regarding the PHA's safety and crime prevention plan must include the following information:

(i) A description of the need for measures to ensure the safety of public housing residents;

(ii) A description of any crime prevention activities conducted or to be conducted by the PHA;

(iii) A description of the coordination between the PHA and the appropriate police precincts for carrying out crime prevention measures and activities;

(iv) The information required to be included by the Public Housing Drug Elimination Program regulations if the PHA expects to receive drug elimination program grant funds.

(2) If HUD determines at any time that the security needs of a public housing project are not being adequately addressed by the PHA's plan, or that the local police precinct is not assisting the PHA with compliance with its crime prevention measures as described in the Annual Plan, HUD may mediate between the PHA and the local precinct to resolve any issues of conflict.

(n) *A statement of the PHA's policies and rules regarding ownership of pets in public housing.* This statement describes the PHA's policies and requirements pertaining to the ownership of pets in public housing issued in accordance with section 31 of the U.S. Housing Act of 1937 (42 U.S.C. 1437a-3).

(o) *Civil rights certification.* (1) The PHA must certify that it will carry out its plan in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), the Fair Housing Act (42 U.S.C. 3601-19), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), and also certify that it will affirmatively further fair housing. The certification is applicable to both the 5-Year Plan and the Annual Plan.

(2) PHAs shall be considered in compliance with the obligation to affirmatively further fair housing if they examine their programs or proposed programs, identify any impediments to fair housing choice within those programs, address those impediments in a reasonable fashion in view of the re-

sources available, and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement, and maintain records reflecting these analyses and actions.

(p) *Recent results of PHA's fiscal year audit.* The PHA's plan must include the results of the most recent fiscal year audit of the PHA conducted under section 5(h)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c(h)).

(q) *A statement of asset management.* This statement describes how the PHA will carry out its asset management functions with respect to the PHA's public housing inventory, including how the PHA will plan for long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

(r) *Additional information to be provided.* PHAs also must include in their Annual Plan:

(1) A table of contents that corresponds to the Annual Plan's components in the order listed in this section. The table of contents also must identify the location of any materials that are not being submitted with the Annual Plan;

(2) An executive summary that provides a brief overview of the information that the PHA is submitting in its Annual Plan and relates the Annual Plan programs and activities to the PHA's mission and goals as described in the 5-Year Plan, and explains any substantial deviations of these activities from the 5-Year Plan; and

(3) For all Annual Plans following submission of the first Annual Plan, a brief summary of the PHA's progress in meeting the mission and goals described in the 5-Year Plan.

§903.9 Must a troubled PHA include additional information in its Annual Plan?

Yes. A PHA that is at risk of being designated as troubled or is designated as troubled under section 6(j)(2) of the U.S. Housing Act of 1937 (42 U.S.C. 1437d(j)(2)) or under the Public Housing Assessment System (24 CFR part 901) must include its operating budget, and include or reference any applicable memorandum of agreement with HUD